



A DOCPHOENIX

## APPL PARTS

\_\_\_\_\_ IMIS \_\_\_\_\_  
 Internal Misc. Paper  
 30/10/02 LET. 3  
 Misc. Incoming Letter  
 \_\_\_\_\_ 371P \_\_\_\_\_  
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 \_\_\_\_\_ SPEC \_\_\_\_\_  
 Specification  
 \_\_\_\_\_ SPEC NO \_\_\_\_\_  
 Specification Not in English  
 \_\_\_\_\_ TRNA \_\_\_\_\_  
 Transmittal New Application

## OUTGOING

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\_\_\_\_\_ AP.B \_\_\_\_\_  
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 Extension of Time filed separate

BACKFILE DOCUMENT INDEX SHEET

### Internal

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 Examiner Search Notes  
 \_\_\_\_\_ CLMPTO \_\_\_\_\_  
 PTO Prepared Complete Claim Set

\_\_\_\_\_ ECBOX \_\_\_\_\_  
 Evidence Copy Box Identification  
 \_\_\_\_\_ WCLM \_\_\_\_\_  
 Claim Worksheet  
 \_\_\_\_\_ WFEF \_\_\_\_\_  
 Fee Worksheet

### File Wrapper

\_\_\_\_\_ FWCLM \_\_\_\_\_  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09:394,159	09/13/1999	FRED S. MILLER	IL-10091	3835

7590 12/11/2002

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EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 12/11/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/394,159

Applicant(s)

Miller et al.

Examiner

Ivars Cintins

Art Unit

1724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Oct 21, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-23 is/are pending in the application.
- 4a) Of the above, claim(s) 13-20 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-12, 21, and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3-12, 21 and 23 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The limitation that the support structure is attached "to the plunger portion of a syringe" (claim 1, last line) does not appear to be supported by the disclosure originally filed, and hence constitutes **new matter**. It is noted that Fig. 4 of the drawings shows a syringe in combination with a support structure and sample collection substrate; but in this drawing figure the support structure **44** appears to be attached to a needle **56** of a syringe **42**, not to the plunger **52** of the syringe.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claim 23 is again rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The term "an index-matched to the thermal expansion of glass" (claim 23, line 2) is still deemed to be vague, and indefinite as to the limitation intended.

Applicant argues that this term is not indefinite because the index of thermal expansion of any particular type of glass is constant; and one skilled in the art could simply look up the thermal expansion value of the particular type of glass of interest. It is pointed out, however, that since a particular type of glass has not been specified in claim 23, this skilled artisan would not know which thermal expansion index is intended.

Dickey et al. (U.S. Patent No. 3,519,390) discloses a liquid purification material in combination with a syringe.

Claims 1, 3-12, 21 and 23, as amended, have not been rejected over "art" because the prior art of record does not teach or fairly suggest a support structure of the type recited attached to the plunger portion of a syringe. Applicant is cautioned, however, that an attempt to overcome the above noted new matter rejection by deleting this newly added limitation from claim 1 may result in reinstatement of the art rejections applied in the previous Office Action.